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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,040	02/26/2002	Mark Russell DeFord	T151	3125
23623 7590 02/08/2007 AMIN, TUROCY & CALVIN, LLP 1900 EAST 9TH STREET, NATIONAL CITY CENTER 24TH FLOOR, CLEVELAND, OH 44114			EXAMINER TRAN, PHUC H	
			ART UNIT 2616	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/08/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/083,040

Applicant(s)

DEFORD, MARK RUSSELL

Examiner

PHUC H. TRAN

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21,23-28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-21,23-28,30 and 31 is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (U.S. Patent No. 6496499 B1) in view of Davidson et al. (U.S. Patent No. 6754197 B1).

- With respect to claims 1, and 11-13, Hamilton teaches a radio system in a cellular communication system, comprising:

a radio device adapted to transmit data packets over an radio frequency link (mobile device in Fig. 5);

a processor coupled to the radio device (506 in Fig. 5);

a memory coupled to the processor, the memory including a data packet transmission queue (508 in Fig. 5); and

Hamilton fails to teach a transmission ordering component wherein the processor transmits a data packet in the data packet transmission queue having a first destination address over the radio device and the transmission ordering component searches through the queue for a data packet having a second destination address upon an occurrence of an error in the transmitting of a data packet of the first destination address and the processor then transmits the data packet of the second destination address over the radio device. Davidson teaches transmitting a data packet of second destination upon the failure of the data packet of the first

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destination address (col. 3, lines 10-19) for transmitting data to other destination. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to implement the method of transmit other data during the error occurred of first data transmission for timely saving in the communication.

- With respect to claim 2, Hamilton also teaches wherein the transmission ordering component advances a packet transmitting pointer to the next data packet in the queue having a different destination address upon an error of the transmission of a data packet that the packet transmitting pointer is currently pointing to in the queue, until the packet pointer reaches the end of the queue (Fig. 6 shows the list of addresses).

- With respect to claim 3, Hamilton discloses wherein the transmission ordering component reorders the queue upon reaching the end of the queue, such that data packets with destination address in which a transmission error has occurred are move to the beginning of the queue (e.g. in Fig. 6 shows the repeat of steps second and third sequential).

- With respect to claim 4, Hamilton teaches wherein packet transmission pointer returns to pointing to the beginning of the queue after the queue is reordered (col. 17, lines 58-62).

- With respect to claims 5, & 30, Hamilton discloses wherein the radio system is an access point system (302 in Fig. 3).

- With respect to claim 6, Hamilton also discloses wherein the radio system is a mobile communication unit (MD in Fig. 3).

- With respect to claims 7, Hamilton teaches wherein the radio system is a host computer (Fig. 1).

- With respect to claims 8, Hamilton also teaches wherein the transmission ordering component resides in a firmware component of the radio device (e.g. Fig. 7).

- With respect to claims 9, Hamilton discloses wherein the transmission ordering component resides in a driver of the radio device (e.g. the memory in the mobile).

- With respect to claims 10, Hamilton inherently teaches wherein the transmission ordering component resides in an application program communicatively coupled to the radio device (Fig. 6).

- With respect to claim 14, Hamilton further comprises advancing to the next location in the queue and transmitting a second data packet for the first destination address upon detection of no error in the transmission of the first data packet with the first destination address (e.g. the second list sequential is the same as first list).

#### ***Allowable Subject Matter***

3. Claims 18-21, 23-28, are 30-32 allowed.

Claims 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

4. The following claims 1-17 was indicated allowable by examiner in previous office action; however, these claims are unpatentable in view of new arts. Therefore, these indicated claims are withdrawn.

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5. Applicant's arguments with respect to claims 1-17 been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form PTO-892.

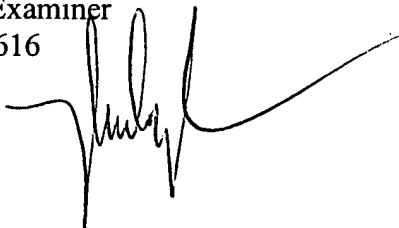
Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571) 272-3172. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Phuc Tran  
Assistant Examiner  
Art Unit 2616

P.t  
2/5/07

A handwritten signature in black ink, appearing to read 'Phuc Tran', with a long horizontal flourish extending to the right.